

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

IN RE:)
)
AMENDMENTS TO THE LOCAL RULES OF) Misc. No. 2003-06
CIVIL PROCEDURE)
)
_____)


ORDER

The Court previously has proposed the creation of Local Rule of Civil Procedure 5.4 ("Local Rule 5.4"). Pursuant to 28 U.S.C. § 2071(b), the Court issued orders dated March 22, 2007, March 28, 2007, and May 8, 2007, which solicited comments on Local Rule 5.4. Some of the suggestions and comments received by the Court are incorporated in the new rule. Accordingly, it is hereby

ORDERED that Local Rule 5.4 shall be effective on June 18, 2007.

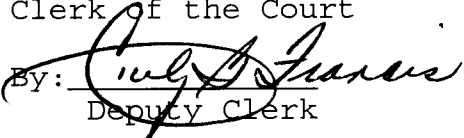
The new rule is attached to this order.

Dated: June 18, 2007


CURTIS V. GÓMEZ
Chief Judge

ATTEST:

WILFREDO F. MORALES
Clerk of the Court

By: 
Deputy Clerk

2007 JUN 18 PM 5:10
CLERK OF COURT

Copies:

Hon. Raymond L. Finch
Hon. Geoffrey W. Barnard
Hon. George W. Cannon
Wilfredo F. Morales, Clerk of the Court
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02/12/2007 ees

Rule 5.4 Electronic Filing

Rule 5.4.1 – Scope of Electronic Filing

Except as provided by these Rules or by order of the Court, all cases are assigned to the Electronic Filing System. Unless otherwise provided by these Rules or by order of the Court, all pleadings and other documents required to be filed with the Court by a Filing User (see LRCi 5.4.2) in connection with a case assigned to the Electronic Filing System must be electronically filed. All such cases shall be filed in accordance with these Rules and the District Court of the V.I. Electronic Case Files User Manual located on our website: <http://vid.uscourts.gov>. Payment must be made when documents that require payment are filed electronically. Payment can be made by cash, check or money order or by such electronic payment that may be approved in the User Manual. If payment is not received by the close of business on the next working day after filing, the Court shall take necessary action which may include striking the document or dismissal of the action.

In a case assigned to the Electronic Filing System after it has been opened, parties who are Filing Users, or are represented by Filing Users, must promptly provide the Clerk with electronic copies of all documents previously provided in paper form on which they subsequently rely in electronically filed documents. All such subsequent documents must be filed by Filing Users electronically except as provided in these Rules or as ordered by the Court.

In cases removed from the Superior Court of the Virgin Islands, the removing party must electronically file all removal documents required by 28 U.S.C. § 1446.

Rule 5.4.2 – Eligibility, Registration, Passwords

Attorneys who intend to practice in this Court, including those regularly admitted or admitted pro hac vice to the bar of the Court and attorneys authorized to represent the United States or Government of the U.S. Virgin Islands without being admitted to the bar, must register as Filing Users of the Court's Electronic Filing System in a form prescribed by the Clerk. Attorneys who are unable to register (e.g., because they do not have an Internet e-mail address) must receive specific exemption from the Court in a form prescribed by the Clerk.

If the Court permits, a party to a pending civil action who is eligible to proceed *pro se* may register as a Filing User in the Electronic Filing System solely for purposes of the action in a form prescribed by the Clerk. If, during the course of the action, the party retains an attorney who appears on the party's behalf, the attorney must advise the Clerk to terminate the party's registration as a Filing User upon the attorney's appearance.

Registration as a Filing User constitutes consent to electronic service of all documents as provided in these Rules in accordance with the Federal Rules of Civil Procedure.

Once registration is completed, the Filing User shall receive notification of the user log-in and password. Filing Users must protect the security of their passwords and immediately notify the Clerk if they learn that their password has been compromised. Filing Users may be subject to

sanctions for failure to comply with this provision.

Once registered, a *pro se* Filing User may withdraw from participation in the Electronic Filing System by providing the Clerk's office with written notice of the withdrawal.

Rule 5.4.3 – Consequences of Electronic Filing

Electronic transmission of a document to the Electronic Filing System consistent with these Rules, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and these Rules, and constitutes entry of the document on the docket kept by the Clerk under Fed.R.Civ.P. 58 and 79.

Before filing a scanned document with the Court, a Filing User must verify its legibility.

When a document has been filed electronically, the official record is the electronic document as stored by the Court, and the filing party is bound by that document. Except in the case of documents first filed in paper form and subsequently submitted electronically, a document filed electronically is deemed filed on the date and at the time stated on the Notice of Electronic Filing from the Court.

Filing a document electronically does not alter the filing deadline for that document. Unless otherwise ordered by the Court a filing must be completed no later than 11:59 p.m. U.S. Virgin Islands time in order to be considered timely filed that day.

Rule 5.4.4 – Entry of Court-Issued Documents

All orders, decrees, judgments, and proceedings of the Court shall be filed in accordance with these Rules. Such filing shall constitute entry on the docket kept by the Clerk under Fed.R.Civ.P. 58 and 79. All signed orders shall be filed electronically by the Court or Court personnel. Any order or other Court-issued document filed electronically without the original signature of a Judge or Clerk has the same force and effect as if the Judge or Clerk had signed a paper copy of the order.

Orders may also be issued as “text-only” entries on the docket, without an attached document. Such orders are official and binding.

The Court may sign, seal and issue a summons electronically, but a summons may not be served electronically.

A Filing User submitting a document electronically that requires a Judge's signature must promptly deliver the document in such form as the Court requires.

Rule 5.4.5 – Attachments and Exhibits

Filing Users must submit in electronic form all documents referenced as exhibits or attachments for which a hyperlink is not available, unless the Court permits conventional filing.

A Filing User must submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the Court. Excerpted material must be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under this Rule do so without prejudice to their right to timely file additional excerpts or the complete document. A Filing User must, however, provide the complete document from which excerpts are made to parties known not to have a copy. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane. The Court may authorize or require parties to file additional excerpts or the complete document.

Rule 5.4.6 – Sealed Documents

Documents ordered to be placed under seal may be filed conventionally or electronically as authorized by the Court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the Court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. If filed conventionally, a paper copy of the order must be attached to the documents under seal and delivered to the Clerk.

Rule 5.4.7 – Retention Requirements

Documents (excluding depositions) that are electronically filed and require original signatures other than that of the Filing User must be maintained in paper form by the Filing User until five years after all time periods for appeals expire. On request of the Court, the Filing User must provide original documents for review.

Rule 5.4.8 – Signatures

The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the Court. They also serve as a signature for purposes of Fed.R.Civ.P. 11, other Federal Rules of Civil Procedure, these Rules, and any other purpose for which a signature is required in connection with proceedings before the Court. Electronically filed documents must include a signature block and must set forth the Filing User's name, address (including email address), telephone number and the attorney's U.S. Virgin Islands bar registration number, if applicable. In addition, the name of the Filing User under whose log-in and password the document is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear.

No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

Documents containing the signature of non-Filing Users are to be filed electronically with the signature represented by a "s/" and the name typed in the space where a signature would otherwise appear, or as a scanned image.

Documents requiring signatures of more than one party must be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) representing the

consent of the other parties on the document; (3) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than three business days after filing; or (4) in any other manner approved by the Court.

Rule 5.4.9 – Service of Documents by Electronic Means

The “Notice of Electronic Filing” that is automatically generated by the Court’s Electronic Filing System, except as provided below, constitutes service of the filed document on Filing Users. Parties who are not Filing Users must be served with a copy of any pleading or other document filed electronically, together with the Notice of Electronic Filing, by an alternate method in accordance with the Federal Rules of Civil Procedure and these Rules.

In the absence of a Notice of Electronic Filing, service of any sealed document by an alternate method, in accordance with the Federal Rules of Civil Procedure and these Rules, is required.

A certificate of service must be included with all documents that are served, including those that are filed electronically, indicating that service was accomplished through the Notice of Electronic Filing for parties and counsel who are Filing Users and indicating how service was accomplished on any party or counsel who is not a Filing User.

Rule 5.4.10 – Notice of Court Orders and Judgments

Immediately upon the entry of an order or judgment in an action assigned to the Electronic Filing System, the Clerk shall transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed.R.Civ.P. 77(d). The Clerk must give notice in paper form to a person who has not consented to electronic service in accordance with the Federal Rules of Civil Procedure.

Rule 5.4.11 – Technical Failures

A Filing User whose filing is made untimely as the result of a technical failure and who is unable to make a timely filing by traditional means must seek appropriate relief from the Court.

Rule 5.4.12 – Public Access

Parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the Court, including exhibits, whether filed electronically or on paper, unless otherwise ordered by the Court:

- a. Social Security numbers. If an individual’s Social Security number must be included, only the last four digits of that number should be used.
- b. Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.

c. Dates of birth. If an individual's date of birth must be included, only the year should be used.

d. Financial account numbers. If financial account numbers are relevant, only the last four digits should be used.

A party wishing to file a document containing the personal data identifiers listed above may:

a. file an unredacted version of the document under seal, or

b. file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list shall be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal and may be amended as of right.

The unredacted version of the document or the reference list shall be retained by the Court as part of the record. The Court may, however, still require the party to file a redacted copy for the public file.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review documents for compliance with this Rule.

Rule 5.4.13– Hyperlinks

Electronically filed documents may contain the following types of hyperlinks:

(A) Hyperlinks to other portions of the same document and/or, where possible, other documents within the CM/ECF system; and

(B) Hyperlinks to a location on the Internet that contains a source document for a citation.

Hyperlinks to cited authority do not replace standard citation format. Complete citations must be included in the text of the filed document. Neither a hyperlink, nor any site to which it refers, is part of the record. Hyperlinks are simply convenient mechanisms for accessing material cited in a filed document.